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MIKE QUAN, et al.

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MIKE QUAN, et al.,)	Case No: CV-10-1835 MEJ
)	
Plaintiff,)	REQUEST FOR MODIFICATION OF
v.)	PRETRIAL SCHEDULING ORDER AND
)	PROPOSED ORDER
)	
SAN FRANCISCO POLICE DEPARTMENT, et)	
al.,)	
)	
Defendant.)	

TO THE ABOVE ENTITLED COURT:

Plaintiffs, Mike Quan and Javier Magallon, by and through their attorneys of record, Lipton, Piper & Sganga, LLP, hereby request that the initial, and most recent modifications, to the scheduling order previously issued by this court be continued to the following dates:

- (1) Liability Expert Disclosure June 23, 2011 (From April 8, 2011);
- (2) Liability Expert Rebuttal June 23, 2011 (From April 18, 2011);
- (3) Close of Discovery shall be July 1, 2011, including expert witness depositions. (From March 15, 2011) Motions to compel shall be filed no later than ten days after the close of discovery.
- (4) Motion to Amend Complaint filed by May 10, 2011.

(5) The Motion for Summary Judgement is ~~reset until~~ VACATED; to allow the filing of the First Amended Complaint.

Plaintiffs would also request that the Summary Judgement Motions, which were filed on April 15, 2011, be taken off calender and reset to a date convenient with the court, but which is after the above date which is requested for Plaintiffs to file a motion for leave to amend their complaint.

This request is made on the follow grounds:

Plaintiffs were representing themselves until this office was retained on April 8, 2011. The attorney of record, at the time the complaint was filed, Mark Webb's, request to withdraw as counsel was granted by the court on December 21, 2010.

While Plaintiffs were representing themselves, they were looking for an attorney, but had difficulty finding one, based on the complexity of the case. The Plaintiffs are not attorneys and have never previously represented themselves in a lawsuit, so they were unable to effectively litigate a federal civil case. When this office was retained Plaintiffs had no idea that they had agreed to change the deadlines, as set forth in the Stipulation which was filed on April 12, 2011. They were also unaware of the existence of the scheduling deadline and/or the importance of these deadlines.

Moreover, after this office was hired, and had a chance to review the file in this matter, the previous attorney did little work on this case. The only discovery that has been done, on behalf of Plaintiffs, is the taking of two depositions. This office also discovered that it is critical that the complaint drafted by the previous attorney be amended, and is therefore asking this court for time to draft an amended complaint and file a Motion for Leave to Amend.¹

Counsel for Plaintiff believes that, if the above continuance is granted, there may be no need to move the trial date, and will try to maintain that date. Counsel for Plaintiff sent an email to all parties in this action requesting a stipulation to the above schedule, but was informed on April 15, 2011 that the San Francisco defendants would not agree to any of the requests.

¹ Counsel cannot go into further detail about this issue, but should the court need additional information, Counsel is prepared to provide it incamera.

1 Plaintiffs now request, pursuant to FRCP 16(b)(4) and based upon the above showing of
2 good cause, that the scheduling order be modified to reflect the above deadlines.

3
4
5 Dated: April 18, 2011

Respectively Submitted;

6
7 /S/
8 Jonathan L. Piper,
9 Attorney for Plaintiffs

10 All pretrial and trial deadlines (including the trial), with the exception of those stated above,
11 are VACATED.

12 Dated: April 21, 2011



ORDER

For good cause appearing, IT IS HEREBY ORDERED, that the pre-trial scheduling orders be modified to reflect the following deadlines:

- (1) Liability Expert Disclosure June 23, 2011 (From April 8, 2011);
- (2) Liability Expert Rebuttal June 23, 2011 (From April 18, 2011);
- (3) Close of Discovery shall be July 1, 2011, including expert witness depositions. (From March 15, 2011) Motions to compel shall be filed no later than ten days after the close of discovery.
- (4) Motion to Amend Complaint filed by May 10, 2011.
- (5) The Motion for Summary Judgement is reset until _____; to allow the filing of the First Amended Complaint.

Dated: _____

Hon. Maria-Elena James